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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Part 90 of the)
Commission's Rules to Expand)
Frequency Availability for Disaster)
Relief Organizations in the)
Special Emergency Radio Service)

RM- _____

To: The Chief, Private Radio Bureau

PETITION FOR RULE MAKING

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SUMMARY

By this petition for rule making, the American National Red Cross seeks to alleviate a severe shortcoming in its ability to coordinate disaster relief efforts following localized and regionalized disasters because of a shortage of radio frequencies. Specifically, the petition seeks to amend Section 90.53 of the Commission's Rules, Subpart C of Part 90, to expand by the addition of ten channels in the 820-870 MHz band, the nationwide frequency allotments available for nationwide use by disaster relief organizations. The Red Cross seeks to use these channels, in addition to the wholly inadequate single frequency 47.42 MHz, for coordination of supply delivery, personnel dispatch and distribution of message traffic throughout a disaster site, and in and out of the affected area.

The ten additional 800 MHz channels sought by the Red Cross must be uniform throughout the United States, so that individual chapters, several of which may be called upon in a given relief effort, may intercommunicate and be prepared through training exercises in the types of communications to be provided on individual channels to utilize the equipment without delay.

The additional frequencies cannot be shared without compromising the safety of life and protection of property at the time of disaster relief efforts.

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To: The Chief, Private Radio Bureau

PETITION FOR RULE MAKING

The American National Red Cross (Red Cross), by counsel and pursuant to Section 1.401 of the Commission's Rules, hereby respectfully requests that the Commission issue a Notice of Proposed Rule Making at an early date, proposing the amendment of Section 90.53 (47 C.F.R. §90.53), Subpart C, to expand the available frequencies for disaster relief agencies eligible for licensing thereunder, to include ten dedicated, additional channels on a nationwide basis in the 820-870 MHz band for temporary base and mobile itinerant operation for disaster relief operations, in the continental United States and its possessions. In support of the request, and the proposed appendix attached hereto, the Red Cross states as follows:

I. Introduction

1. The American National Red Cross is a single, national corporation that operates throughout the United States and its territories and possessions. It is organized and exists pursuant to a charter granted by the United States Congress.¹ It is both a Federal instrumentality and a qualified tax-exempt charitable organization, and it is subject to prescribed federal supervision.² It is not, however, a federal agency.³ The Red Cross is eligible for licensing, and is a licensee of the Commission, as a Disaster Relief Organization pursuant to Section 90.41 of the Commission's Rules governing the Special Emergency Radio Service (SERS).

2. The Red Cross is the principal national disaster relief organization in the United States, and its territories and possessions. It provides critical disaster relief service to the American Public in the aftermath of local, regional and national disasters, and provides these services to others throughout the world at the request of the International Red Cross. It has cooperative arrangements with Federal agencies,⁴ including the

¹ 36 U.S.C. §1, et seq.

² See, Department of Employment v. United States, 385 U.S. 355 (1966).

³ See Sturges, "The Legal Status of the Red Cross", 56 Michigan Law Review 1 (November, 1957).

⁴ These agencies include the Department of Defense and the United States Coast Guard.

Federal Emergency Management Agency (FEMA), relative to the provision of relief efforts following natural and man-made disasters. The Red Cross is the only non-Federal primary respondent in the Federal Disaster Response Plan authored by FEMA.

II. Current Frequency Availability for Disaster Relief Organizations is Severely Limited

3. As the Red Cross has repeatedly discovered, the coordination of relief efforts at the site of a local or regional emergency, such as the recent Red Cross relief efforts in the aftermath of Hurricanes Andrew in south Florida and Iniki in Hawaii, require the use of short-range radio communications. VHF and UHF communications are necessary to coordinate blood transportation, emergency relief supplies, transportation of food and water, shelter administration, damage assessment, logistics in the affected area, transportation of personnel, and other related relief communications. During Hurricane Hugo and the Hayward Fault Earthquake, the Red Cross had deployed more than 1,600 Red Cross personnel in the affected areas. A single dedicated radio channel available on a wide-area basis pursuant to Section 90.53 of the Rules (47.42 MHz) has repeatedly proven hopelessly insufficient and inadequate to address the administrative, tactical, logistical and emergency information which must be communicated and disseminated between and among deployed personnel during such massive disasters.

4. The Red Cross has "made do" with the single 47.42 MHz channel⁵ to the extent possible up to the present time, by resort to other facilities, either purchased, or provided voluntarily by other entities who are Commission licensees. Long-distance communications have been facilitated by the use of leased common carrier facilities, principally through the INMARSAT system, using Red Cross-purchased transportable units. The cost of these facilities has been and will continue to be borne by the Red Cross. Amateur radio operators often provide additional message traffic capabilities for both long- and short-range communications. Some cellular facilities are available for disaster relief in certain circumstances as well. Overall, however, none of these options provide reliable disaster relief communications in a given location at a given time,⁶ and none permit advance planning for disaster

⁵ There are approximately 800 of the 2600 Red Cross chapters licensed by the Commission to utilize the 47.42 MHz channel. Equipment for this frequency is used, pursuant to the terms of Section 90.41(a), only during times of actual disaster relief. This limitation diminishes the preparatory efforts of the Red Cross. There is a distinct need for use of disaster relief communications training by individual chapters.

⁶ Amateur Radio operator availability varies depending on location, and the ability to plan for communications does not allow for primary reliance only on amateur radio. This is not to demean the importance of amateur radio communications during an emergency. It has been of immense value time and time again. The Red Cross will continue in the future to make use of amateur radio as an important adjunct to its disaster relief communications, especially for long-distance message traffic. The urgent need for in-place communications protocols, and for administrative communications which are not properly provided by radio amateurs, prohibits sole reliance on amateur radio operators by Red Cross disaster relief teams. Neither can the Red Cross rely on cellular communications, which may or may not be available in a given area after an emergency. Cellular facilities are not useful in dispatch-type operations on-site, either.

relief. As an example, in St. Croix, during the aftermath of Hurricane Hugo, the Red Cross had some barely reliable long-range communications to Puerto Rico and the United States mainland. However, a lack of reliable short-range communications facilities on-site severely limited the disaster relief which the Red Cross could provide, and restricted the responsiveness of its efforts. When the inbound message traffic reached St. Croix, the information could not be disseminated to the several shelters, storage facilities, or to personnel in transit throughout the island in more than 40 vehicles which were in use throughout the island. Information could not be assembled and sent back to the United States mainland, either. Thus, under present frequency arrangements, the Red Cross is reduced, at the time of an emergency, to the vague hope that some communications facilities will be provided on site, and that there can be some use of the facilities by uncoordinated personnel. Such is a completely unsatisfactory situation, which may very well directly result in loss of life.

5. The Red Cross is a signatory to the FEMA "Plan for Federal Response to a Catastrophic Earthquake".⁷ The Commission has also

⁷ The Plan for Federal Response to a Catastrophic Earthquake has been developed through the efforts of the Subcommittee on Federal Earthquake Response Planning in conjunction with the Regional Steering Committee, chaired by the Federal Emergency Management Agency, Region IX, San Francisco. These groups provide a forum for the 25 agencies with identified responsibilities in the Plan to participate in planning and exercise activities that are required to develop and maintain a Federal response capability. FEMA has coordinated development of the plan to fulfill its lead

signed on as a participant in that Plan. The role of the Red Cross under the Plan is as the primary provider of emergency support function #6, Mass Care. It is not possible for the Red Cross to effectively plan for such participation, nor to confidently deploy staff and volunteers (which can number in the thousands) in an affected area in the aftermath of an earthquake, or other disaster, without a significant improvement in local communications capabilities. The Red Cross has noted the shortcomings in emergency communications capabilities it currently suffers under current SERS rules in correspondence with FEMA.

6. In an effort to alleviate the shortfall in available communications capabilities, the Red Cross filed an application on May 1, 1991 during the window for applications for five-channel nationwide non-commercial facilities at 220-222 MHz. Numerous other entities filed applications which were mutually exclusive with that of the Red Cross. To date, the successful application has not been chosen, as the lottery for nationwide non-commercial applicants in that band has not been held. Because of the two-year delay in resolving that proceeding; the additional delay which may be anticipated before any licenses are awarded; and given the very distinct probability that the prolonged wait would produce nothing of value to the Red Cross' disaster relief efforts, the Red Cross

agency responsibilities under the Disaster Relief Act and the Earthquake Hazards Reduction Act. The purpose of the plan is to assist State and local governments affected by a catastrophic earthquake or, if appropriate, another catastrophic natural event, during emergency life saving operations.

has just recently withdrawn its application and requested, and been granted, a refund of its filing fee. The need for improved communications capability, given the obligations of the Red Cross in disaster relief efforts, however, remains, and is becoming more acute all the time.

**III. Additional Frequencies Must Be Authorized for SERS
Disaster Relief Organization Eligibles,
And More Flexible Operational Rules Adopted**

7. What is called for at the present time, without delay, is the exclusive allocation of at least ten additional VHF/UHF frequencies, preferably ten discrete channels in the 820-870 MHz band.⁸ These ten channels would be used for disaster relief work and disaster relief training exercises and operations by the American National Red Cross and its chapters on a nationwide⁹ basis, both for simplex and duplex (repeater) operation. The Red Cross is eligible under Subpart C of Part 90 Rules governing the Special Emergency Radio Service as a disaster relief organization. Presently, Section 90.53 of the Rules lists, in the table of

⁸ The Red Cross prefers the allotment of channels in the 820-870 MHz band, as opposed to other VHF or UHF bands, due to the availability of reasonably priced handheld, mobile, and temporary base equipment in that band, some of which has previously been made available to the Red Cross, and used in relief efforts in Hurricane Iniki in Hawaii recently.

⁹ The need for nationwide channel allocations for Red Cross use is based on the fact that the Red Cross is a chapter organization. The chapters would individually invest in hardware for use by chapter staff and volunteers. However, many chapters may be, and usually are, involved in a given disaster relief effort, and intercommunication among all volunteers and staff is critical to disaster relief planning.

available frequencies for SERS licensees, 806 to 824 MHz for mobile use, and 851 to 869 MHz for fixed and mobile use. The footnote to those frequency listings (§90.53(b)(21)) states merely that Subpart S contains rules for assignment of frequencies in the 806-824 MHz and 851-869 MHz bands. Subpart S makes no provision for any nationwide, itinerant use of any of those channels. While the Red Cross would be eligible for licensing in those bands, for either conventional or trunked use, it would be required to apply on a city-by-city, chapter-by-chapter basis for individual channels, which would by definition not be uniform from city to city. Such would not address the intercommunication requirement between and among Red Cross chapters throughout the United States. Participation in a regional disaster relief effort would be impossible to coordinate on that basis.

8. The purposes sought to be achieved by the Red Cross include the provision of actual disaster relief communications, and as well the use of the communications facilities for training exercises and chapter operations preparatory to disaster relief. Individual staff and volunteers cannot respond in an emergency if use of the equipment is limited to operation during the actual emergency. The volunteers must be prepared to respond in coordinated fashion prior to their deployment in an emergency. It is possible for the Red Cross to conduct training exercises and to incorporate communications plans in its disaster relief efforts for the short term by means of experimental authorizations. Indeed, the Red Cross has requested such experimental authorization in the 820-870 MHz

band for training efforts in certain locations in the southern United States, preparatory to this year's hurricane season, conditioned on advance consultation with the appropriate Part 90 frequency coordination entity in advance.

9. It is anticipated that the training, operations and disaster relief efforts of the Red Cross necessitate exclusive use of the ten channels sought to be made available hereunder by disaster relief organizations. Indeed, during non-emergency periods, the more than 2600 chapters of the Red Cross would require use of the frequencies for training exercises, and for other purposes such as chapter operational communications preparatory to disaster relief work. It is requested herein that the strictures of Section 90.41(a) of the Rules be relaxed as well, to permit disaster relief organizations to utilize assigned frequencies for training and operational communications as well as for actual disaster relief coordination. The Red Cross would make efficient use of the requested ten channels, given the fact that there are more than 2600 active Red Cross chapters nationally. It is critical under any circumstances, that the frequencies be immediately available to the Red Cross during a disaster, and that sharing not take place during staging, relief, or cleanup operations. The Commission therefore should consider the allotment of exclusive channels. Should any sharing of the channels be required during non-emergency periods, such assignments should be made on a non-interference basis, such that use of the frequencies is preemptible

by the Red Cross without delay at the times or locations of disaster relief efforts.¹⁰

10. It is not the suggestion of the Red Cross that it be included as an eligible in the newly created Emergency Medical Radio Service (EMRS), although the Red Cross provides emergency medical care as an adjunct of its disaster relief efforts. Rather, the eligibility of the Red Cross is squarely within the definition of a disaster relief organization under the SERS. Neither would this request impact the EMRS, as none of the frequency allocations for that service are in the 800 MHz band. See the Report and Order in Docket 91-72, 8 FCC Rcd. 1454, released February 12, 1993.

11. Finally, if the Commission should determine that the procedures for assignment of frequencies under Subpart S absolutely do not permit the allotment of ten channels in the 820-824 MHz and/or the 851 to 869 MHz segments, or otherwise in the 820-870 MHz band, nationwide allotment of ten channels in other bands above 50 MHz should be proposed.

IV. Conclusion

12. The American National Red Cross and its volunteers in chapters throughout the United States, SERS eligibles, require expanded communications capabilities, especially for short-range communications, during disaster relief operations and training exercises therefor. The nature of the disaster relief functions and

¹⁰ The Commission has just permitted inter-service sharing between non-governmental SERS eligibles and those in the Industrial/Land Transportation Radio Services in the 150-174 MHz and 450-470 MHz bands, after EMS licensees were removed from the SERS. The criteria for such is pursuant to 47 C.F.R. §90.176(b).

organization necessitates interoperability throughout the United States, and therefore nationwide allotment of several operating frequencies, preferably in the 820-870 MHz range. At present, the single 47.42 MHz channel available on a nationwide basis is wholly inadequate to permit the operation of the Red Cross, and often thousands of deployed personnel at a disaster relief site. Leased common carrier facilities are used for certain purposes, and volunteer amateur radio facilities are useful, but neither can substitute for dedicated short-range communications facilities for administrative and operational communications necessary during a disaster and immediately afterward. To perform its Congressionally mandated functions, the Red Cross requires the nationwide availability of specific additional VHF/UHF frequencies for disaster relief organizations in the SERS, as an addition to Section 90.53(a) and (b)(21) of the Commission's Rules.


Therefore, the foregoing considered, the American National Red Cross respectfully requests that the Commission issue a notice of proposed rule making at an early date, looking toward the amendment of Subpart C, Part 90 of the Commission's Rules, to expand the allotment of frequencies reserved for assignment on a primary basis

to national organizations eligible for disaster relief operation under §90.41 of the Commission's Rules as set forth herein.

Respectfully submitted,

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APPENDIX

Section 90.41(a) is amended to read as follows:

§90.41 Disaster Relief Organizations.

(a) Eligibility. Organizations established for disaster relief purposes having an emergency radio communications plan are eligible to hold authorizations to operate radio stations for the transmission of communications relating to the safety of life or property, the establishment and maintenance of temporary relief facilities, and the alleviation of the emergency situation during periods of actual or impending emergency, or disaster, and until substantially normal conditions are restored. In addition, the stations may be used for training exercises incidental to the emergency radio communications plan, and for operational communications of the disaster relief organization or its chapter affiliates.

Section 90.53(a) is amended to read as follows:

§90.53 Frequencies available.

(a) ****

Special Emergency Radio Service Frequency Table

<u>Frequency or Band</u>	<u>Class of station(s)</u>	<u>Limitations</u>
*****	*****	*****
8**.*	Base or Mobile	5
8**.*	do	5
8**.*	do	5
8**.*	do	5
8**.*	do	5
8**.*	do	5
8**.*	do	5
8**.*	do	5
8**.*	do	5
8**.*	do	5
*****	*****	*****